

the United States only if they are inspected by an inspector of the Animal and Plant Health Inspection Service [APHIS], either in Australia or the United States, and treated with an authorized treatment under the supervision of an APHIS inspector for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the Queensland fruit fly (*Dacus tryoni*), and the light brown apple moth (*Epiphyas postvittana*).

(2) If an APHIS inspector finds evidence of any other insect pests for which a treatment authorized in the Plant Protection and Quarantine Treatment Manual is available, the grapes will remain eligible for importation into the United States only if they are treated for the pests in Australia, or at their first port of arrival in the United States, under the supervision of an APHIS inspector.

(b) *Authorized treatments.* Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

(c) *Trust Fund Agreement.* Grapes that undergo the fumigation phase of their treatment in Australia may be imported into the United States only if the national plant protection service of Australia has entered into a trust fund agreement with APHIS. This agreement requires the national plant protection service of Australia to pay in advance all costs that APHIS estimates it will incur in providing services in Australia. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses, and other incidental expenses incurred by APHIS inspectors in performing these services. The agreement requires the national plant protection service of Australia to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the national plant protection service of Australia to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the grapes may be imported. After a final audit at the

conclusion of each shipping season, any overpayment of funds would be returned to the national plant protection service of Australia, or held on account until needed.

(d) *Department not responsible for damage.* The treatment for grapes from Australia prescribed in the Plant Protection and Quarantine Treatment Manual is judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[55 FR 25953, June 26, 1990, as amended at 67 FR 8465, Feb. 25, 2002]

§ 319.56-2i Administrative instructions prescribing treatments for mangoes from Central America, South America, and the West Indies.

(a) *Authorized treatments.* Treatment with an authorized treatment listed in the Plant Protection and Quarantine Treatment Manual will meet the treatment requirements imposed under § 319.56-2 as a condition for the importation into the United States of mangoes from Central America, South America, and the West Indies. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

(b) *Department not responsible for damage.* The treatments for mangoes prescribed in the Plant Protection and Quarantine Treatment Manual are judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[65 FR 37669, June 15, 2000, as amended at 67 FR 8466, Feb. 25, 2002]

§ 319.56-2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.⁴

Apples and pears from Australia (including Tasmania) and New Zealand may be imported only in accordance with § 319.56-2(e) (2) or (3) and under

⁴ Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the cold treatment requirements of § 319.56-2d.

permit and in compliance with this section and the other requirements of this subpart.

(a) *Conditions of entry*—(1) *Statistical sample inspection*. A biometrically designed statistical sample will be taken under § 319.56-6 by the inspector of the plant protection and quarantine programs from each shipment⁵ of apples and each shipment of pears moved from New Zealand or Australia (including Tasmania), that are offered for entry into the United States and, if inspection of such sample discloses that pests of the family Tortricidae (fruit-leaf roller complex) which are dangerous and destructive pests of apples and pears are not present in the shipment sampled and the shipment therefore does not present a risk of introducing such pest, such fruit may be imported under § 319.56-2(e)(2) without treatment as prescribed in paragraph (a)(2) of this section. If any such pests are found on such inspection the shipment must be treated as prescribed in paragraph (a)(2) of this section.

(2) *Approved fumigation*. Fumigation with methyl bromide must be in accordance with the PPQ Treatment Manual, which is incorporated by reference in § 300.1 of this chapter.

The fruit may be fumigated in normal atmospheric chambers, under tarpaulins, in van trucks or other enclosures that have been approved for that purpose by an inspector of the plant protection and quarantine programs. When the fumigation is carried out, it must be accomplished in a manner satisfactory to the inspector to insure adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant, for effective destruction of all such pests present. Apples and pears to be fumigated may be packed in wooden crates, fiberboard cartons, or other gas-permeable containers. The fruit must be packed so as to provide for maximum distribution of the fumigant. If the fruit is packed in a gas-imper-

vious liner, the liner must be perforated to provide for the entry and aeration of the methyl bromide gas. The individual fruit may be wrapped with tissue paper. Cubic feet of space under fumigation shall include the load of fruit to be fumigated. The exposure period shall begin when all the fumigant which has been introduced into the chamber or enclosure has been volatilized. The fumigation temperatures required in these treatments shall be that of the pulp temperatures of the fruit. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) Chamber:¹

MB at NAP 1½ lb for 2 hours at 80–89 °F.

(ii) Tarpaulin truck van and refrigerator railway car fumigation:

MB at NAP 1½ lb/1,000 ft³ for 2½ hours at 80–89 °F. (18 oz minimum gas concentration at ½ hour) (14 oz minimum gas concentration at 2½ hours). 2 lbs/1,000 ft³ for 2½ hours at 70–79 °F. (25 oz minimum gas concentration at ½ hour) (18 oz minimum gas concentration at 2½ hours). 2½ lbs/1,000 ft³ for 2½ hours at 60–69 °F. (31 oz minimum gas concentration at ½ hour) (24 oz minimum gas concentration at 2½ hours). 3 lbs/1,000 ft³ for 2½ hours at 50–59 °F. (36 oz minimum gas concentration at ½ hour) (28 oz. minimum gas concentration at 2½ hours). 4 lb/1,000 ft³ for 2½ hours at 40–49 °F. (45 oz minimum gas concentration at ½ hour) (34 oz minimum gas concentration at 2½ hours).

(3) *Ports of entry*. Apples and pears to be offered for entry under this section may be shipped to any U.S. port where inspectors are located and which are named in the permit.

(4) *Supervision of treatment*. The treatment approved in the PPQ Treatment Manual be conducted under the supervision of an inspector of the plant protection and quarantine programs. The inspector shall require such safeguards in each specific case for unloading and handling of the fruit at the port of

⁵A shipment is defined as all of a type (genus) of fruit from the same country of origin offered at a U.S. port and from a single carrier, regardless of marks and numbers, growers' lots, Customs entries, or numbers of importers involved.

¹MB=methyl bromide; NAP=normal atmospheric pressure.

entry, transportation of the fruit from the place of unloading to the treatment facilities, and its handling during fumigation and aeration as required by the PPQ Treatment Manual, as he or she deems necessary to prevent the spread of quarantine pests and assure compliance with the provisions of this subpart.

(5) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or his or her representative.

(6) *Department not responsible for damages.* The treatment prescribed in the PPQ Treatment Manual is judged from experimental tests and uses for quarantine purposes to be safe for fumigation of apples and pears. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment or because of safeguards required under paragraph (a)(4) of this section.

[38 FR 9005, Apr. 9, 1973, as amended at 47 FR 13320, Mar. 30, 1982. Redesignated at 50 FR 9788, Mar. 12, 1985, as amended at 68 FR 37917, June 25, 2003]

§ 319.56-2k Administrative instructions prescribing method of fumigation of field-grown grapes from specified countries.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of southern and middle Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to other conditions prescribed in the permit as conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of southern and middle Europe, North Africa, and the Near East.* As used in this section, the term "continental countries of southern and middle Europe, North Africa, and the Near East" means Algeria, Austria, Bulgaria, Cyprus, Egypt, France, Germany, Greece, Hungary,

Israel, Italy, Libya, Luxembourg, Portugal, Spain, Switzerland, Syria, and Union of Soviet Socialist Republics.

(b) *Ports of entry.* Grapes to be offered for entry must be shipped from the country of origin to New York or such other North Atlantic ports as may be named in the permit.

(c) *Precooling of fruit.* Grapes to be offered for entry must be shipped under refrigeration and the fruit may not be removed from the vessel until the inspector has satisfied himself that this requirement has been complied with and that the fruit can be moved promptly for treatment without danger of plant pest dissemination.⁶

(d) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will insure adequate air and fruit temperatures, volatilization, distribution, and concentration of the fumigant. Such fumigation shall be in accordance with the following fumigation schedule:

Temperature, degrees F.	Methyl bromide dosage in pounds per 1,000 cubic feet	Exposure time—hours
70-79	2	2½
60-69	2½	2½
50-59	3	2½
40-49	3½	2½

(e) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of grapes and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

⁶Grapes from countries where the Mediterranean fruit fly occurs are subject to the cold treatment as described in § 319.56-2d. Under certain conditions such treatment may be effected in transit or upon arrival at the port of New York.